IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 24TH MAY 2007 / 3RD JYAISHTA 1929

Crl.MC.No. 1666 of 2007()

L.P.NO.62/2005 OF JFCM COURT I MANJERI

PETITIONER: ACCUSED

ABDUL SALAM, S/O BEERAN,
KOLAKKADAN HOUSE, VELLOTUPARA, THUVUR,
MALAPPURAM DISTRICT.

BY ADV. SRI.P.SAMSUDIN

RESPONDENTS: COMPLAINANT

STATE OF KERALA REPRESENTED BY THE
SUB INSPECTOR OF POLICE KARUVARAKUNDU,
THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 24/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.1666 of 2007

Dated this the 24th day of May 2007

O R D E R

The request made by the petitioner in this petition is indeed strange. He faces indictment in a prosecution under Sections 279 and 337 I.P.C. The crime was registered as early as in 2000. The petitioner has not appeared before the learned Magistrate. The case against him has been transferred to the list of long pending cases and is pending as L.P.No.62/05.

2. The petitioner appears to be in two minds. He is not too sure whether he should plead guilty or not. If he pleads guilty and if the learned Magistrate would impose sentence of fine only he is willing to so plead. On the contrary, if there is a risk of his being sent to prison, he does not want to plead guilty and wants the learned Magistrate to dispose of the case expeditiously. He apprehends that the learned Magistrate may not consider his application for bail on merits, in accordance with law and expeditiously. The petitioner, therefore, prays that appropriate directions may be issued.

3. This court cannot, of course, advise the petitioner as to what he should do in these circumstances. It is for him to

decide whether he should plead guilty or not. Of course, if the petitioner surrenders before the learned Magistrate, the learned Magistrate shall have to consider his application for bail on merits, in accordance with law and expeditiously. Sufficient general directions have been issued in Alice George vs.Deputy Superintendent of Police [2003(1)KLT 339]. I have no reason to assume that the learned Magistrate would not consider the application for bail on merits, in accordance with law and expeditiously.

4. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF APRIL 2007